

REMARKS

Claims 1-32 are all the claims pending in the application.

By way of this Amendment, Applicants have amended independent claim 1 to include the limitations of claims 2 and 19, which have been canceled. Also, the original range relating to the at least one taste ingredient has been removed from claim 1, because the taste ingredient is obviously pre-sent in an amount of less than the originally stated amount of up to 29% when the gum base is present in at least 86% by weight. Since claim 1 has only been amended to include the limitations of claims 2 and 19, it is requested that this amendment be entered and considered.

The Examiner continues to rejected claims 1-32 under section 103(a) as being unpatentable over Bernatz (U.S. Patent No. 6,551,643) in view of Phillips (U.S. Patent No. 4,117,645) and Corriveau (WO 03011045). For the following reasons, Applicants respectfully traverse this rejection.

With respect to original claim 2 (now incorporated into claim 1) the Examiner asserts that “as it is known to use 70% gum base, it would have been obvious to use more gum base and less of the other ingredients, depending on the product desired.” Office Action at 3.

Applicants respectfully disagree with the Examiner’s obviousness position. In claim 1 as amended, the gum base has to be present in at least 86% by weight. This is substantially different from the prior art value of 70%. In this connection Applicants direct the Examiner’s attention to the fact that according to claim 1 the gum granules are conveyed to a tableting machine where the granules are compressed into chewing gum tablets.

Bernartz is making a finished confectionary product, such as bubble gum. See col. 1, lines 6-11. In such a finished product a gum base content of up to 70% is extremely high, and no

skilled person would contemplate to increase the gum base content to above 70% in a finished confectionary product. Indeed, such a product would not be considered a confectionary product. Indeed, it is noted that Bernatz discloses that three different gum materials were tested. See Table 1. The gum content for these three examples was 70.00%, 48.45% and 59.90%. The goal of Bernatz was to produce spherical gum balls of a relatively small diameter. There is absolutely not teaching or suggestion that this goal could be achieved using a gum content of greater than 70.00% as the Examiner asserts. To the contrary, 70.00% is the maximum gum content of the three recipes disclosed in Bernatz.

It is very well known within this technical area that the tackiness of the granules has to be low in order to allow compression in a tabletting machine. It is respectfully submitted that the Examiner seems to disregard the tangible prior art understanding that the granules must have a low gum base content in order to avoid sticking when granules are compressed into chewing gum tablets. In short, the Examiner has failed to cite a single reference which supports his position regarding the obviousness of a gum content in the claimed range of 86 to 99% Wt.

In addition, the prior art only disclose the manufacture of granules of a single size with one and the same die plate. The Examiner argues with reference to Bernartz that multiple sized die plates are disclosed. However, Bernartz only discloses the possibility of using different die plates with apertures of different sizes, and not a single die having apertures of different sizes. In other words, according to the teaching of Bernartz a die with apertures of one size can be exchanged with a die having apertures of a different size. This is, however, very different from a disclosure of a single die having apertures of different sizes. According to Bernartz dies have to

be exchanged in order to manufacture granules of different sizes, and it follows that according to Bernartz only granules of a single size are produced.

Corriveau relates to making gum chips in a certain size range. According to Corriveau the gum material has to be manufactured as gum chips produced by chilling the gum material and mechanically reducing the size of the gum particles. This cool and chop procedure is very different from an extrusion through a die into water and results in particles that are not comparable to the granules according to the present invention. According to Corriveau the chippings can have a size in the range from 0.5 to about 6.0 mm, but this is not a disclosure of a manufacture of granules having two different average diameters.

Ream is also related to chipping of cooled gum material, and the document is not relevant to the present invention.

In short, none of the cited references describes – alone or in combination – a method for producing compressed gum products where the chewing gum tablet is produced from extruded gum granules of differently sized fractions.

The difference in size of the granules is important in order to obtain a final product of unitary character because the different sized granules mix together and form a compressed product of high quality.

Based on the foregoing, it is submitted that claim 1, and its dependent claims, patentably distinguish over the prior art.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

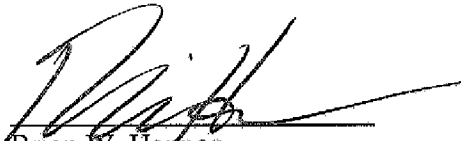
AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Appl. No.: 10/609,497

Atty. Docket No.: Q76406

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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